



GERALD C. MANN
~~REGISTRAR~~
ATTORNEY GENERAL

THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

June 24, 1939

Honorable B. M. Whiteacre
County Auditor, Grayson County
Sherman, Texas

OVERRULED by 0-6124
in part.

Dear Sir:

Opinion No. 0-980

Re: Allowance of discount authorized
by Senate Bill 402, 46th Legis.,
in the absence of authorization
by the governing body of counties,
common school districts, or inde-
pendent school districts.

By your letter of June 12, 1939, you asked the opinion of
this Department upon the following question:

"Does the discount authorized by Senate Bill
402 apply to County Ad Valorem Taxes without the
authorization of the Commissioners' Court and to
Common and Independent School Districts without
the authorization of each school board or set of
trustees?"

Section 1 of Senate Bill No. 402, Forty-sixth Legislature
provides as follows:

"All taxpayers shall be allowed discounts for
the payment of taxes due to the State and all govern-
mental and political subdivisions and taxing districts
of the State, said discounts to be allowed under the
following conditions: (a) three (3%) per cent dis-
count on ad valorem taxes due the State or due any
governmental or political subdivision or taxing
district of the State, if such taxes are paid ninety
(90) days before the date when they would otherwise
become delinquent; (b) two (2%) per cent discount
on ad valorem taxes due the State or due any govern-
mental or political subdivision or taxing district
of the State if such taxes are paid sixty (60) days
before the date when they would otherwise become de-
linquent; (c) one (1%) per cent discount on ad valorem

taxes due the State or due any governmental or political subdivision or taxing district of the State, if such taxes are paid thirty (30) days before the date when they would otherwise become delinquent. Provided, however, that the provisions of this section shall not apply to water improvement districts, irrigation districts, levee districts, water control districts and other governmental subdivisions, cities, towns and independent school districts unless and until the governing body of such water improvement districts, irrigation districts, levee districts, water control districts, and other governmental subdivisions, cities, towns, or independent school districts by ordinance, resolution or order, shall adopt the provisions hereof; and in the event any such water improvement district, irrigation district, levee district, water control district, and other governmental subdivisions, city, town or independent school district elects to allow such discounts, then the governing body of each water improvement district, irrigation district, levee district, water control district, and other governmental subdivisions, city, town or independent school district, shall have power, by the ordinance, resolution or order levying the annual taxes, to designate the months in which such discounts of three (3%) per cent, two (2%) per cent, and one (1%) per cent respectively shall be allowed, but in no event shall the same apply to split payment of taxes."

You will observe that the Act expressly provides that the provisions of Section 1 shall not apply to independent school districts unless and until the governing body of such independent school districts, by ordinance, resolution or order, adopts the provisions of the Act. Since the Board of Trustees of the independent school district, is, by statute, given the power to levy and cause to be collected ad valorem taxes for maintenance and for the purchase, construction, repair or equipment of public free school buildings within the limits of the district, and for the purchase of the necessary sites therefor, it is clear that such board of school trustees for the district is the governing body referred to by the Act, and that the provisions of the Act are not effective unless and until adopted by such governing body.

We are of the opinion that the phrase "other governmental subdivisions", as used in the second sentence of Section 1 of Senate Bill 402, was not intended by the Legislature to be

limited in its application to other governmental subdivision of a character similar to those districts expressly named immediately before such words are used in the Act, but we think it was the intention of the Legislature to use such term in its broadest significance, so as to include such governmental subdivisions as counties and common school districts. It follows that the provisions of Section 1 of Senate Bill 402 are not applicable to counties in respect to their ad valorem taxes unless and until adopted by the Commissioners' Court, the governing body of such county.

In respect to common school districts, you will observe that Article 2784, R. S. 1925, makes the Commissioners' Court of the county the governing body of the common school districts in such county, insofar as the power to levy and cause to be collected the annual ad valorem taxes in such common school districts is concerned. Where the function of governing such governmental subdivisions is thus divided between two governing bodies, it is evident that the intention of the Legislature must have been that that governing body which is charged with the duty and which has the power to levy and cause to be collected the ad valorem taxes shall be the governing body which shall adopt or reject the provisions of Section 1 of Senate Bill 402.

You are, therefore, advised that as and when the Commissioners' Court adopts the provisions of Section 1 of Senate Bill 402, with respect to ad valorem taxes to be levied and collected in common school districts within the county, the provisions of Section 1 of Senate Bill 402 will become effective without the action or assent of the board of trustees within the particular common school district.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By

/s/ R. W. Fairchild
Assistant

RWF: pbp:rlt:aa

APPROVED JUN 24, 1939

/s/ Gerald C. Mann

ATTORNEY GENERAL OF TEXAS

APPROVED
Opinion
Committee
By /s/BW
Chairman